

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA

PI, INC.,)	
)	
Plaintiff,)	
v.)	
)	Case No. 1:12-cv-350
M. MELANIE BEENE, JONES C. BEENE,)	
IV AND F. ALLISON BEENE,)	Judge Harry S. Mattice, Jr.
)	
Defendants and Third-Party)	Magistrate Judge Susan K. Lee
Plaintiffs,)	
)	
v.)	
)	
JAMES JEFFERSON BEENE, II AND)	
JONES C. BEENE,)	
)	
Third-Party Defendants.)	

**PI, INC.’s MOTION FOR PARTIAL
DISMISSAL OF THE AMENDED COUNTERCLAIM**

Comes now Plaintiff/Counter-defendant PI, Inc. (hereinafter “**PI**”), pursuant to Fed. R. Civ. P. 12(c), 12(h)(2)(B), and 12(b)(6), and moves this Court for entry of an Order dismissing portions of the Amended Counterclaim/Third-party Complaint [Doc. 63], Page ID #1642 - #1660, filed on February 20, 2014 by Defendants M. Melanie Beene, Jones C. Beene, IV, and F. Allison Beene (hereinafter “**Shareholders**”) as follows:

1. Count I (Oppressive Conduct and Breach of Fiduciary Duty) of the Amended Counterclaim/Third-party Complaint should be dismissed for failure to state a claim for which relief may be granted against PI;

2. Count II (Civil Conspiracy) of the Amended Counterclaim/Third-party Complaint filed against PI should be dismissed for failure to state a claim for which relief may be granted against PI; and

3. The paragraphs applicable to PI of the relief demanded against PI set forth at the Amended Counterclaim/Third-party Complaint, pp. 16 – 17 [Doc. 63], Page ID #1657 - #1658 should be dismissed. Those paragraphs are (b), (c)(other than compensatory damages should Counts I and II not be dismissed), and (d). The relief requested against PI at paragraph (b) is dependent on Counts I and II not being dismissed, and the relief sought at paragraphs (c)(other than compensatory damages) is relief that is not eligible to be granted against PI under the Counts I, II, and III theories. Paragraph (d) fails to state a claim for which relief may be granted in that no specified conduct of PI is requested to be enjoined

For clarity, this motion to dismiss does not apply to Count III (Attorneys Fees Pursuant to T. C. A. §48-26-104(c)) or relief sought against PI at paragraph (e) on page 17 of the Amended Counterclaim/Third-party Complaint. While PI asserts Shareholders are not entitled to the relief sought, as it regards Count III, a claim for relief that can be granted has been pled.

A Memorandum in support is filed separately herewith.

Submitted this _9th __ day of April, 2014.

/s/ Brian C. Quist

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CERTIFICATE OF SERVICE

I hereby certify that on this the **9th day of April, 2014**, a copy of the foregoing Document was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. mail. Parties may access this filing through the Court's electronic filing system.

/s/ Brian C. Quist

Brian C. Quist (BPR #025616)